

**BYLAWS
MANNA FOODBANK, INC.**

ARTICLE I

Purpose

The mission of MANNA Food Bank, Inc. (“Corporation”) is to involve, educate and unite people in the work of ending hunger in Western North Carolina. MANNA Food Bank’s vision is a hunger-free WNC.

Core Values: MANNA’s core values are Accountability, Integrity, Compassion & Collaboration.

ARTICLE II

Offices

Section 1. **Principal Office.** The principal office and mailing address of the Corporation shall be located at 627 Swannanoa River Road, Asheville, NC, 28805.

Section 2. **Registered Office.** The registered office of the Corporation required by law to be maintained in the State of North Carolina will be as established by the Board and may be, but need not be, identical with the principal office.

Section 3. **Other Offices.** The Corporation may have offices at such other places as the Board of Directors may designate or as the affairs of the Corporation may require from time to time.

ARTICLE III

Membership

Section 1. **Members.** The Corporation shall have no members.

ARTICLE IV

Board of Directors

Section 1. **General Powers.** The property, affairs and business of the Corporation shall be managed by its Board of Directors. Notwithstanding anything herein to the contrary or under North Carolina law, the Corporation shall be governed and the provisions of these Bylaws shall be construed consistent with the requirements of a nonprofit corporation qualified under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

Section 2. **Number and Qualifications.** The number of Directors shall be at least 12 and not more than 25. At all annual elections, The Directors shall be elected by a majority of the Board for a term of three (3) years to succeed the Directors whose terms then expire, provided that no Director may hold office for more than two consecutive three-year

terms without taking at least one year off from Board membership. At the Board meeting in the month preceding the election, the Membership and Governance Committee shall present a list of candidates pursuant to qualifications established by the Board. Other nominations may be made by Board members from the floor. Terms for new members, unless to fill a vacancy as provided under Section 4, shall start at the beginning of the calendar year.

Emeritus Membership - An honor in perpetuity may be awarded after serious deliberation and election by the Board of Directors to former members who have significantly and over time contributed to the Corporation. Emeritus members enjoy all privileges of Board membership other than voting on current matters.

Honorary Membership - Individuals can be elected by the Board to an honorary membership as an annual "calendar year" Board position. This honor is for those persons who have befriended the Corporation in a significant way. Normal Board responsibilities and the opportunity to vote are not included in honorary membership, though honorary members are encouraged to attend monthly meetings and to participate on committees.

Section 3. **Resignation/Termination.** A Director may resign at any time by giving written notice of his/her intentions to the President or Secretary. Any Board member may be removed, with or without cause, by a two-thirds (2/3) vote of the other members of the Board.

Section 4. **Vacancies.** Vacancies which occur as a result of resignation or termination may only be filled by appointment of the Board from candidates presented by the Membership and Governance Committee, and such members shall serve until the end of the term to which they are appointed.

Section 5. **Compensation.** The Board of Directors will serve without compensation or reimbursement of expenses incurred by them in attending regular board meetings and related activities. However, expenses associated with non-routine events involving overnight travel, the cost of attending conferences, or other unusual activities when carrying out their duties to the Corporation may be reimbursed.

Section 6. **Duties.** Directors shall stand in a fiduciary relation to the Corporation and shall discharge the duties of their respective positions in good faith, and with that diligence and care which ordinarily prudent persons would exercise in similar circumstances and like positions. The Directors shall guide the organization in following the stated mission.

Section 7. Diversity. MANNA FoodBank is committed to promoting diversity within the Board of Directors.

Section ~~8.7~~ **Board Assessment.** It shall be the policy of MANNA FoodBank Board of Directors to evaluate every two years their work in fulfilling their obligations as Directors of the Corporation. The Board shall also periodically measure the success of the Corporation in meeting goals and objectives set by the Board as part of the annual planning process.

ARTICLE V

Meetings

- Section 1. **Regular Meetings.** Regular Meetings of the Board shall be held 6-12 times each year as required to carry out necessary business of the Corporation. Board members are expected to attend all Regular Meetings, but in the absence of extenuating circumstances should maintain meeting attendance of at least 75%. For these purposes, attendance includes participation by teleconference. A Board member may be considered for termination after missing more than half of the annually scheduled meetings.
- Section 2. **Annual Meeting.** The Annual Meeting of the Board of Directors shall be held at the end of the calendar year. The Annual Meeting shall generally replace the Regular Meeting for that month. At such Annual Meeting, elections shall be held for Board Officers and members and other business shall be transacted as needed.
- Section 3. **Special Meetings.** Special Meetings may be called by the President or by two or more Directors. The person(s) calling such a Special Meeting may fix the place, date and time for holding the Special Meeting.
- Section 4. **Quorum.** A presence of one-half (1/2) of the Directors plus one shall constitute a quorum for the transaction of business; provided, if less than a quorum of the Directors shall be present at the time and place of any validly called meeting, the Directors present may adjourn the meeting from time to time until a quorum shall be present, and notice of any adjourned meeting need not be given. Any member participating by teleconference shall be considered present for the purpose of determining a quorum.
- Section 5. **Majority.** All elections and other business items must be approved by a simple majority of the Board members present at any meeting except where otherwise noted in the Bylaws. Any Director who is present at a meeting at which action is taken shall be presumed to have assented to the action unless his or her contrary vote is recorded or his or her dissent is otherwise entered in the minutes of the meeting.
- Section 6. **Notice of Meetings.** Notice of meetings shall be given thereof by telephone or in writing or by e-mail at least ten (10) days before the Annual Meeting and at least five (5) days before a Regular Meeting or Special Meeting. The attendance of a Director at any meeting shall constitute a waiver of notice of such meeting, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.
- Section 7. **Voting Rights.** Proxy voting is prohibited.
- Section 8. **Informal Action by Directors.** Action may be taken by Directors without a meeting if at least three-fourths (3/4) of the members agree either in writing or by email to such action and if the results of such action are filed with the minutes of the succeeding

meeting and set forth for approval by the Directors.

ARTICLE VI

Officers

- Section 1. **Officers.** The Officers of the Board shall be President, Vice-President, Secretary and Treasurer, and other such Officers as may be elected by the Board, all of whom shall be elected from the membership of the Board and whose duties shall be those specified by the Bylaws and other such duties as the Board may prescribe.
- Section 2. **Term of Office.** The Officers shall be elected by the Board membership at the Annual Meeting and will take office at the beginning of the calendar year. The Membership and Governance Committee shall present a slate of candidates at the meeting prior to the Annual Meeting, and other nominations may be made by Board members from the floor. Officers shall hold office until the end of the calendar year, when successors shall be elected and installed. The Chair of the Membership and Governance Committee shall preside over the elections.
- Section 3. **Removal.** Any Officer elected or appointed by the Board membership may be removed by majority vote of the Board whenever, in its judgment, the best interest of MANNA will be served thereby.
- Section 4. **Vacancies.** Vacancies which occur due to the expiration of terms may only be filled by vote of the membership at any Regular Meeting or Special Meeting. The Membership & Governance Committee may present one candidate for each vacancy, and nominations may be made from the floor.
- Section 5. **President.** The President shall preside at all meetings of the Board and of the Executive Committee. The President shall perform such functions as are hereafter established by the Board. He or she shall be an *ex-officio* member of any committee established by the Board, and he or she may sign and execute all authorized documents in the name of the Corporation. The President shall not serve more than two consecutive terms.
- Section 6. **Vice-President.** In the event of the absence or inability of the President to act, or in the event of a vacancy in the office of President, the duties of the President shall be performed by the Vice-President on an interim basis. The Vice-President shall also perform other such duties as shall be applicable to the position or assigned to him or her by the Board or President.
- Section 7. **Secretary.** The Secretary shall be responsible for the correspondence of the Board; shall ensure that notice required by these Bylaws is given to the Board membership of all Special and Annual Meetings; and shall be responsible for accurate records of the acts and proceedings of all such meetings. The Secretary shall keep or cause to be kept an accurate and current list of the Board membership. He or she shall perform other duties as are generally incident to the office or which are assigned by the Board or President.

Section 8. **Treasurer.** The Treasurer shall be the financial officer of the Board and shall (1) sign, or cause to be signed, checks and drafts and other papers requiring the payment of money, together with such other persons as are designated by the Board; (2) be responsible for ensuring that the staff is maintaining current and accurate accounts of all receipts and disbursements; and (3) furnish to the Board at least quarterly: a) Statements of Financial Position; b) Statements of Activities, and c) Statements of Cash Flows of the Corporation. The Treasurer shall also perform other such duties as may be incident to the office or as may be assigned by the Board or President, including chairing the Finance Committee.

Section 9. **Chief Executive Officer - Agent of the Board.** The Board of Directors shall employ a professional staff person who shall serve as Chief Executive Officer and an agent of the Board. The Chief Executive Officer shall supervise the day to day operations of the Corporation and shall carry out the programs and policies set forth by the Board. The Chief Executive Officer shall serve as an *ex-officio* member of all standing and special committees, but shall have no vote on matters brought before the Board or committees. With input from the Board, the Executive Committee will formally evaluate the Chief Executive Officer's performance on an annual basis.

Section 10. **Duties.** Officers shall stand in a fiduciary relation to the Corporation and shall discharge the duties of their respective positions in good faith and with that diligence and care which ordinarily prudent persons would exercise in similar circumstances and like positions.

Section 11. **Salaries of Officers.** No Officer of the Corporation shall receive a salary for services as such Officer, except as approved by the Board of Directors of the Corporation.

ARTICLE VII

Committees

Section 1. **Standing Committees.** The standing committees shall be as follows:

- Executive Committee
- Membership and Governance Committee
- Finance Committee
- Audit Committee

In addition to the Standing Committees, the Board shall create other special committees as deemed necessary. The President may appoint *ad hoc* committees as deemed necessary. Committees shall consist of at least two (2) Board members and be chaired by a member of the Board. However, committees may include non-Board members.

Section 2. **Executive Committee.** The Executive Committee shall be chaired by the President and shall consist of the elected Officers of the Board, the immediate Past President of

the Board, and any ad hoc members as determined by the Board. This committee shall perform the functions of the Board of Directors in the routine management of the affairs of the organization when the Board is not in session, shall act on human resource matters that require action on the part of the Board, and perform such other functions as shall be determined by the Board. MANNA FoodBank human resource policies shall be reviewed biannually by the Executive Committee and, if deemed appropriate, by the full Board. The actions of the Executive Committee shall be presented to the Board of Directors at the Board meeting following such action by the Executive Committee.

- Section 3. **Membership and Governance Committee.** The Membership and Governance Committee shall be responsible for:
- (1) Presentation of the slate of Officers and Directors for election at the Annual Meeting;
 - (2) Recommendations to the Board of candidates to fill vacant unexpired Board terms;
 - (3) The orientation of new members of the Board and development of Board members;
 - (4) Board self-assessment, and
 - (5) Board compliance with the Bylaws.

- Section 4. **Finance Committee.** The Finance Committee will be chaired by the Treasurer and will be responsible for reviewing and providing guidance for the organization's financial activities. Specifically, the Committee shall:
- (1) Provide oversight for budget development and submit the budget to the full Board for approval;
 - (2) Regularly review and report to the Board on the organization's financial position including revenues and expenditures, balance sheet and other matters related to its continued solvency;
 - (3) Ensure the maintenance of an appropriate capital structure;
 - (4) Ensure internal controls and processes are in place to maintain organizational assets; and
 - (5) Oversee the organization's financial investments and, if deemed necessary, create an investment subcommittee.

The Finance Committee will be separate from the Audit Committee and will not include staff. However, the Chief Financial Officer will serve as staff support for the committee.

- Section 5. **Audit Committee.** The Audit Committee will oversee all activities associated with the audit of the Corporation and the independent audit firm as follows:
- (1) Each member of the Audit Committee will be independent. "Independence" is defined as not being part of the management team and not receiving compensation. At least one member will be a "financial expert", such as an individual with education and experience as a public accountant, auditor, principal accounting officer or chief financial officer.
 - (2) The Audit Committee is directly responsible for hiring, setting compensation, and overseeing the independent auditor's activities. The selection of the independent audit firm is subject to confirmation by the Executive Committee. Although

rotation of the independent audit firm is not mandatory, the independent audit firm selection will reviewed at least every five years.

- (3) The Audit Committee will set rules and procedures for complaints concerning accounting and internal control practices.
- (4) The Audit Committee will meet with the independent auditor, review the annual audit, and recommend its approval/modification to the Board.
- (5) The Audit Committee Chair, or member of Audit Committee, will also serve as a contact person for staff members wishing to file a whistle-blower complaint under the organization's Whistle-Blower Policy.

The Audit Committee will be separate from the Finance Committee and will not include staff. However, the Chief Financial Officer will serve as staff support for the committee.

Section 6. **Appointment of Committee Chairpersons.** The President shall appoint the chairperson of all committees. Each Board member is required to be a member of at least one committee of the Board unless the Executive Committee has determined that the Board member's service is more effective in another capacity.

ARTICLE VIII

Contracts, Loans, Checks and Deposits

Section 1. **Contracts.** The Board of Directors may authorize by written delegation any Officer or Officers, or agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or be confined to special instances. Contracts and purchases within the scope of the approved annual budget and in the ordinary course of business do not require Board approval. Contracts and purchases other than in the ordinary course of business that are in excess of \$210,000 will be reviewed by the Finance Committee and the appropriate Board committee. All such contracts that exceed \$50,000 will be reviewed and approved by the Board before signing.

Section 2. **Loans.** No loan shall be contracted on behalf of the Corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. For the purposes of this section, revolving credit obligations such as credit cards or purchase cards utilized in the ordinary course of business will not be construed as loans and as such are not subject to prior approval. However, lines of credit issued by financial institutions will be subject to prior approval by the Board.

Section 3. **Checks and Drafts.** All checks, drafts or other orders for the payment of money, issued in the name of the Corporation, shall be signed by such Officer or Officers, or agent or agents, of the Corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. Notwithstanding anything to the contrary, all such instruments over the sum of \$10,000.00 shall be approved by the Treasurer, or in his or her absence, by another member of the Executive Committee.

Section 4. **Deposits.** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such depositories as the Board of Directors may select.

ARTICLE IX

General Provisions

Section 1. **Seal.** The seal of the Corporation shall be in such form as shall be approved from time to time by resolution of the Board of Directors.

Section 2. **Waiver of Notice.** Whenever any notice is required to be given to any Director by law, by the charter or by these Bylaws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice.

Section 3. **Fiscal Year.** The fiscal year of the Corporation shall be fixed by the Board of Directors.

Section 4. **Audit of Books.** The financial books and records of the Corporation shall be audited at the close of each fiscal year, with a report being made to the Board of Directors following completion thereof. The independent auditor shall be selected by the Audit Committee, as set forth in Article VII, Section 5.

Section 5. **Income.** No part of the net income of the Corporation is to inure to the benefit of any of its Officers, Directors, members, or any other private individual.

Section 6. **Indemnification.** It is the policy of this Corporation to attract and maintain responsible, qualified Directors and Officers and to such end, to allocate the risk of personal liability of such Officers and Directors through indemnification and insurance to the fullest extent available and as authorized by Chapter 55A, Part 5, Article 8, of the North Carolina General Statutes.

- (1) Except as provided herein and in accordance with North Carolina General Statutes §55A-8-51, any person who at any time serves or has served as a Director or Officer of the Corporation shall be indemnified by the Corporation if such person is made an individual party in a proceeding because such person is or was a Director or Officer of the Corporation, and if such person:
 - (a) conducted himself or herself in good faith;
 - (b) reasonably believed:
 - (i) in the case of conduct in his or her official capacity with the Corporation, that his or her conduct was in the Corporation's best interest; and
 - (ii) in all other cases that his or her conduct was at least not opposed to the best interest of the Corporation; and,
 - (c) in the case of any criminal proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.
- (2) Notwithstanding the foregoing, this Corporation shall not indemnify an Officer

or Director:

- (a) in connection with any proceeding by or in the right of the Corporation in which the Director or Officer was adjudged liable to the Corporation; or
- (b) in connection with any other proceeding charging improper personal benefit to the Director or Officer, whether or not involving action in his or her official capacity, in which the Director or Officer was adjudged liable on the basis that personal benefit was improperly received by such Director or Officer.

However, a Director or Officer may be indemnified by the Corporation in connection with a proceeding by or in the right of the Corporation that is concluded without final adjudication on the issue of liability provided such indemnification is limited to reasonable expenses incurred in connection with the proceeding.

- (3) In accordance with North Carolina General Statutes §55A-8-53, expenses incurred by a Director or Officer in defending a proceeding may be paid by the Corporation in advance of the final disposition of such proceeding as authorized by the Board of Directors in the specific case or by resolution or by contract upon receipt of an undertaking by or on behalf of the Director or Officer to repay such amount unless it shall ultimately be determined that the Director or Officer is entitled to be indemnified by the Corporation against such expenses.
- (4) The Corporation shall not indemnify an Officer or Director in accordance with the authority to indemnify under North Carolina General Statutes §55A-8-51 unless authorized in the specific case after a determination has been made that indemnification is permissible in the circumstances because the Director or Officer has met the standard of conduct set forth herein and under North Carolina General Statutes §55A-8-51. Determination as to indemnification and the reasonableness of expenses shall be made in accordance with North Carolina General Statutes §55A-8-55.
- (5) In addition to the indemnification provisions above, the Corporation may by resolution agree to indemnify any one or more of its Officers, Directors, employees or agents against liability and expenses in any proceeding arising out of their status as such or their activities in any one of the foregoing capacities, provided, however, the Corporation shall not indemnify or agree to indemnify any Director, Officer, employee or agent against liability or expenses he or she may incur on account of his or her activities which were at the time taken, known, or believed by such person to be clearly in conflict with the best interests of the Corporation or if he or she received an improper personal benefit.

Section 7. **Conflict of Interest.** The Corporation's staff and Board members are obligated always to act in the best interest of the organization. This obligation requires that any employee or Board member, in the performance of the Corporation's duties, seeks only the furtherance of the Corporation's mission. At all times, they are prohibited from using their job title, the organization's name, or the organization's property for private profit or benefit.

- (1) The Officers, Directors, employees, or agents of the Corporation should neither solicit nor accept gratuities, favors, or anything of monetary value from contractors/vendors. This is not intended to preclude bona-fide MANNA fundraising activities.
- (2) No Officer, Director, employee, or agent of the Corporation shall participate in the selection, award, or administration of a purchase, contract, or relationship with a vendor or donor where, to his or her knowledge, any of the following has a financial interest in that purchase or contract:
 - (a) The Officer, Director, employee, or agent;
 - (b) Any member of his/her immediate family, including unmarried partners;
 - (c) An organization in which any of the above is an Officer, Director, or employee;
 - (d) A person or organization with whom any of the above individuals is negotiating or has any arrangement concerning prospective employment.
- (3) Disclosure - Any possible conflict of interest shall be disclosed by the person or persons concerned.
- (4) Board Action - When a conflict of interest is relevant to a matter requiring action by the Board, the interested person(s) shall call it to the attention of the Board, and said person(s) shall not vote on the matter. In addition, the person(s) shall not participate in the final deliberation or decision regarding the matter under consideration and shall retire from the room during the vote of the Board. When there is a doubt as to whether a conflict exists, the matter shall be resolved by vote of the Board of Directors, excluding the person(s) concerning whose situation the doubt has arisen.
- (5) Record of Conflict - The official minutes of the Board shall reflect that the conflict of interest was disclosed and the interested person(s) was (were) not present during the final discussion or vote, and did not vote on the matter.
- (6) Directors will at all times place the interests of the Corporation above personal priorities by maintaining an environment of confidentiality with respect to Board meeting discussions and decisions.

Section 8. **Parliamentary Procedures.** The conduct of all meetings of the Corporation shall be in accord with Roberts Rules of Order, Revised.

Section 9. **Dissolution.** In the event of dissolution, the residual assets of the Corporation will be turned over to one or more organizations which themselves are (a) exempt as organizations described in Sections 501(c)(3) and 170 (c)(2) of the Internal Revenue Code of 1954 or corresponding sections of any prior or future Internal Revenue Code, and are (b) operated exclusively for non-profit educational, scientific, literary, or charitable purposes and qualify for property tax exempt status pursuant to N.C.G.S. 105-278.7 or corresponding sections of any future North Carolina State

Law.

Section 10. **Amendments.** These Bylaws may be amended or repealed and new Bylaws adopted by a two-thirds majority vote of the Board of Directors at any regular or special meeting, provided that notice of such amendments must be sent to the Board members at least two (2) weeks before the scheduled meeting.

~~Section 11. **Diversity.** MANNA FoodBank is committed to promoting diversity within the Board of Directors.~~